

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JACOBI GAINES,  
Plaintiff,

v.

K. DE LA FUENTE,  
Defendant.

Case No. [23-cv-05386-RMI](#)

**ORDER**

Re: Dkt. No. 22

Plaintiff, a detainee proceeding *pro se*, filed a civil rights complaint under 42 U.S.C. § 1983. The Court ordered service and is waiting for a dispositive motion from Defendant. Presently pending is Plaintiff's motion to appoint advisory counsel to help prepare for trial.

There is no constitutional right to counsel in a civil case, *Lassiter v. Dep't of Social Services*, 452 U.S. 18, 25 (1981), and although district courts may "request" that counsel represent a litigant who is proceeding *in forma pauperis*, as plaintiff is here, *see* 28 U.S.C. § 1915(e)(1), that does not give the courts the power to make "coercive appointments of counsel." *Mallard v. United States Dist. Court*, 490 U.S. 296, 310 (1989).

The Ninth Circuit has held that a district court may ask counsel to represent an indigent litigant only in "exceptional circumstances," the determination of which requires an evaluation of both (1) the likelihood of success on the merits and (2) the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991). Plaintiff has presented his claims adequately, and the issues are not complex. There are no pending motions, and it is premature to prepare for trial. The motion (dkt. 22) is **DENIED** without prejudice.

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**IT IS SO ORDERED.**

Dated: June 25, 2024

A handwritten signature in black ink, appearing to read 'RMILLMAN', is written over a horizontal line.

ROBERT M. ILLMAN  
United States Magistrate Judge

United States District Court  
Northern District of California